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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,938	11/13/2003	Darshan Timbadia	122467.00701	9539

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01/22/2007

EXAMINER
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CRABTREE, JOSHUA DAVID

ART UNIT	PAPER NUMBER
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3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/712,938

Applicant(s)

TIMBADIA ET AL.

Examiner

Joshua D. Crabtree

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21/12/05 and 19/05/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 17-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. In response to the amendments dated 21/12/2005 and 05/19/2006; Claims 14-16 and 22-27 had been cancelled. Claims 1-13 and 17-21 are pending.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6 and 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Pfenninger et al. (US 2001/0031457).

With regard to claim 1, Pfenninger discloses a system for administering an examination comprising: one or more testing stations (22), configured to receive a plurality of test items and to display the test items to a user ([0006], 1-4; *A personal computer receives and displays test items.*), and wherein the one or more testing stations are further configured to record state information comprising time elapsed from the start of the examination ([0030], 6; *Test subjects are only allotted a limited amount of time to complete a test, so a station must know the time elapsed.*), identification of test items displayed to the user, and user interactions with the testing stations ([0032], 1-5; *A station records and displays the test items (web pages), and records and processes the user interactions (mouse*

*pointing and clicking*).); a first server computer system in communication with the one or more testing stations (16), wherein the first server computer system is configured to electronically transmit the test items to the one or more testing stations ([0031], 18-21; *The server computer system provides a test to the test subject.*) and to receive user information (*Tester ID*) and responses to the test items from the one or more testing stations ([0034], 1-2; *The responses to the test items (raw answers) are received by the server computer system (web server).*), and wherein the first server computer system is further configured to receive the state information from the one or more testing stations and to electronically store the state information ([0042], 1-3; *The web server stores the status of the tests at the testing stations and the administrator can view the status page.*); and a second server computer system in communication with the first server computer system (18), wherein the second server computer system is configured to receive user information and responses to the test items from the first server computer system ([0035], 1-7; *The responses to the test items (test answers) and the user information (information on the test taker) are downloaded by the second server computer system (18).*) and to deliver test packages to the first server computer system ([0038], 1-3; *The second server delivers test packages (test reports) to the first server computer system (16).*).

With regard to the newly added features wherein the testing station may transmit the state information at substantially the same time the information is recorded, and wherein the first server computer may electronically store the state information at substantially the same time that the information is received, Pfenninger

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discloses that a test administrator may view information about tests currently in progress (Paragraph [0008], [0010]). Therefore, a test administrator does not have to wait until a test is completed before viewing information about the test. Additionally, Pfenninger discloses that a test taker's answers may be quickly provided to the system and scored (Paragraph [0010]). In this case, the word "quickly" may be analogous to "substantially at the same time".

With regard to claim 2 and 3, Pfenninger discloses that the first server computer system communicates with the one or more testing stations via a distributed network wherein the distributed network is the Internet (*Fig. 1; The first server computer system (16) communicates with a testing station (22) via the Internet (24).*).

With regard to Claim 4, Pfenninger discloses that the one or more testing stations are further configured to store the test items in volatile memory ([0032]; *The test items can be web pages which would be stored in volatile memory (RAM) before being displayed to the user.*).

With regard to Claim 5, Pfenninger discloses that the first server computer system comprises: one or more computers configured to perform the functions of a web server ([0024]; *The first server computer system (16) can perform the functions of a web server.*), a servlet engine ([0028], 4-6; *The first server computer system provides dynamic-page generated pages for a test administrator.*) and an application server ([0039][0040]; *The first server computer system (16) provides a test administrator workspace application that performs*

*the functions as described.); and one or more data storage devices (A web server must have one or more data storage devices.).*

With regard to claim 6, Pfenninger discloses that the one or more testing stations are further configured to periodically deliver to the first server computer system changes to the state information ([0033]; *After 24 hours, the test station delivers the state that the time to complete the test is over and the test subject has not completed the test, and the Tester ID is no longer valid.*).

With regard to claim 8, Pfenninger discloses that second server computer system comprises: one or more computers; one or more data storage devices; and a package migration tool configured to properly format the test packages prior to delivery to the first server computer system ([0036]; *Test packages (test reports) are formatted in XML and PDF format and are permanently stored on the second server computer system (18). Permanent storage implies one or more data storage devices.*).

With regard to Claim 9, Pfenninger discloses that the package migration tool is further configured to manage the use of subsequent versions of the test packages ([0034], 7-12; *Software manages versions of tests by using modules.*).

With regard to Claim 10, Pfenninger discloses that the second server computer system is further configured to score the responses to the test items ([0035]).

With regard to Claims 11 and 12, and the limitation wherein the examination is a linear examination or an adaptive examination, Pfenninger discloses that traditional types of tests (i.e., linear) may be administered ([0026]). Additionally, the invention of

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Pfenninger is inherently capable of presenting tests with questions in various formats (whether linear or adaptive), as desired by a user (*Various types of tests may be used with the invention ([0044]).*

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7, 13, and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pfenninger in view of Linton (US 6,282,404).

With regard to claim 13, Pfenninger discloses a method of administering an examination to a user over a distributed network comprising: synchronizing an initial state object on a server and on one or more testing stations in communication with the server, wherein the initial state object comprises the time within which the examination must be completed and the test items to be presented to the user ([0008]; *A test administrator can receive from the server the time within which the examination must be completed (allotted time deadline) and the tests that are presented to the user. As in Fig. 1, the test administrator receives the test information from the server (16).; delivering a plurality of test items to one or more testing stations ([0009], 5-7; The test items are delivered to the test taker at the testing station (place where the testing workplace is accessed).; displaying the*

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plurality of test items to the user and recording the users responses ([0032], 1-5); and delivering to the server a changed state object comprising the time elapsed in the examination, the test items presented to the user, and the user's responses to the test items ([0062]; *The test administrator receives, on the completed tests page, the date and time the subject completed the test and a test report showing the test results.*).

With regard to claim 20, Pfenninger discloses a method of managing the state of an examination, the method comprising: delivering identification of the examination to be administered on one or more testing stations to a server computer ([0007]; *The administrator workspace allows a user to identify to the server the tests to be ordered and then administered.*); creating an initial state object on the server computer wherein the initial state object defines the initial state of the examination ([0013]); delivering the initial state object to the one or more testing stations ([0031]; *A test is delivered to a test subject by a testing workspace, which contains the initial state of the examination.*); recording each user interaction with the one or more testing stations ([0032], 1-5); and delivering changes to the initial state object from the one or more testing stations to the server computer ([0063]; *The initial state object is delivered to the server, and can be viewed with the "Test in Progress" page.*).

With regard to claims 7, 13, and 20, Pfenninger discloses that the one or more testing stations are further configured to deliver to the first server computer system changes to the state information upon the user interacting with the testing station ([0031], *When a user has performed the proper actions, state information that the user is ready*



*to take a test is sent, and a test is provided.*). Pfenninger discloses that an administrator may view information pertaining to tests in progress, as previously described (Paragraph [0008]). Since the invention is implemented across a network, the time required for state information to be transmitted from the student station to an administrator would depend on the connection speed of the network (which would substantially be at the same time, for a fast connection). However, Pfenninger does not explicitly disclose the feature wherein the aforementioned is performed substantially at the same time that the user provides a response to a test item. Linton teaches an instructional system in which a user may view evaluation responses provided by users in real-time, as they are provided across a network link (Col. 3: 12-27). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of Linton into the invention of Pfenninger in order to provide an evaluation system in which a teacher may view the students responses in real-time as they are provided. With this feature, a teacher might be able to detect cheating (such as, for example, if a student correctly answered a very difficult question in a very short period of time).

Additionally, if a teacher notices that two students are submitting answers at almost the same time for each question, the teacher may be able to conclude that the two students are working together.

With regard to Claims 17 and 18, and the limitation wherein the examination is a linear examination or an adaptive examination, Pfenninger discloses that traditional types of tests (i.e., linear) may be administered ([0026]). Additionally, the invention of

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Pfenninger is inherently capable of presenting tests with questions in various formats (whether linear or adaptive), as desired by a user (*Various types of tests may be used with the invention ([0044]).*

With regard to claims 19 and 21, Pfenninger discloses that upon failure of the testing station, the initial state object and the changed state objects stored on the server are used to recreate the examination on the testing station at the point of the examination where the failure occurred ([0033]; *If power to the test taker interface is interrupted, the test subject can complete the test at a later time.*).

#### *Response to Arguments*

4. Applicant's arguments with respect to claims 1-13, and 17-21 have been considered but they are not persuasive. Applicant has argued that the prior fails to teach the newly added features in the amended claims. The examiner respectfully asserts that these features are addressed in the rejection above.

5. Applicant has argued, with regard to claim 19, that Pfenninger does not teach the feature wherein, upon failure of a testing station, using an initial state and changed object... etc. Applicant has argued that Pfenninger teaches that a student reinitiate an exam, rather than resume the exam from the point at which the test taker left off. The examiner respectfully disagrees. In paragraph [0033], Pfenninger states that if a test taker is interrupted during a session, he or she may later log on and complete the test. This paragraph makes it clear that a test taker may resume the test at a later point (i.e.,

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disagrees. In paragraph [0033], Pfenninger states that if a test taker is interrupted during a session, he or she may later log on and complete the test. This paragraph makes it clear that a test taker may resume the test at a later point (i.e., continue where he or she left off). Additionally, Pfenninger provides for an alternate scenario in which a user may take the test again (at the last sentence of paragraph [0033]). Therefore, there is one situation in which a user may *complete* a test at a later time (such as if the test session was interrupted), and there is another situation in which a user may *take the test again* (such as if a specific period of time has expired).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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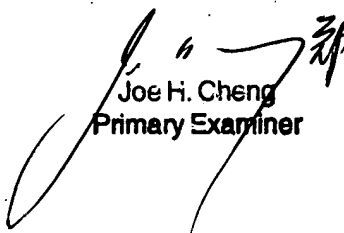
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D. Crabtree whose telephone number is 571-272-8962.

The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua D. Crabtree  
January 8, 2007



Joe H. Cheng  
Primary Examiner